



**Not for Publication: Appendix A and B of this report are Exempt/Confidential under Access to Information Procedure Rules 10.4 ( 3 )**

## Report of the Director of City Development

### Executive Board

**Date: 10 March 2010**

**Subject: Large Casino Licence**

#### Electoral Wards Affected:

Not known

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

### Exemption

Appendix A & B to this report are confidential as it is considered that their disclosure at this stage in the Large Casino licence application process would be prejudicial. The public interest in maintaining the exemption in relation to this document outweighs the public interest in disclosing the information by reason of the fact that it contains information relating to financial and business affairs of the Council which, if disclosed may prejudice the development of the Casino project and may adversely affect the business of the Council.

### EXECUTIVE SUMMARY

This report provides Members with an update on the process which the Council will need to undertake to move forward with the awarding of the Large Casino Licence. The Council was granted the statutory authority to award a Large Casino Licence after the submission of a successful bid to Government in 2006. The bid provided a broad overview of the approach that the Council would adopt in the awarding of the licence, but in order to move forward it is now important that the aims or objectives of the project and the expected benefits accruing are more particularly identified. Within this report, officers have proposed the 3 objectives of securing a positive and significant economic impact, the maximisation of a financial return to the Council and that any financial return accrued will be used to facilitate the delivery of projects in support of the Narrowing the Gap agenda. If Members support this approach, it is proposed that these will be reflected in a 'Statement of Principles', which will be developed and incorporated into the Council's Gambling Policy via the budget and policy framework.

The structure of the application process with a proposed indicative timetable is provided along with the resource implications which include the use of professional advisors to act as an Advisory Panel to evaluate the bids received. Authority is sought for the Director of City Development and the Assistant Chief Executive (Corporate Governance) to move forward with the process.

## **1.0 Purpose of this Report**

1.1 The purpose of this report is to provide Executive Board with a progress update on how the process for the awarding of the Large Casino Licence is being moved forward and to identify:

- proposed objectives for the project
- the structure of the process going forward
- the approach to managing the resource implications of the licensing process
- the approvals required to move forward with the licensing process
- the proposed timetable for the project

## **2.0 Background Information**

2.1 As has been previously reported, the Council now has the statutory authority to licence one Large Casino. This resulted from the bid submitted by the Council in 2006 to the Government's Casino Advisory Panel. The making of the bid was considered and approved by Executive Board in March 2006 (Minute 241 refers). The bid provided a broad overview of the approach that the Council would adopt in awarding the Licence including the establishment of a Social Inclusion Fund.

2.2 The Government decided not to progress any proposals for a Regional (Super) Casino. Consequently, the Large Casino Licence is the largest casino licence that can be granted in the UK. In total eight local authorities have been given the statutory powers to award a Large Casino Licence. In addition to Leeds they are Newham, Great Yarmouth, Hull, Middlesbrough, Milton Keynes, Solihull and Southampton. In the context of the above, Leeds is in a somewhat unique position as the only Core City to have obtained the statutory power to grant a Large Casino Licence. This may result in Leeds being one of the more sought after licences to secure.

2.3 Accordingly officers have considered Leeds' position with a focus on how the casino licence can provide economic benefits to Leeds and support the Narrowing the Gap agenda. This core strategy is reflected in the 3 objectives outlined at 3.1.2 below.

## **3.0 Main Issues**

### **3.1 Objectives for the Project**

3.1.1 In awarding a licence for a Large Casino, the legislation requires the Council to determine which of the competing applications would, in the authority's opinion, be likely if granted to result in the greatest benefit to the authority's area. In this report that statutory test will be referred to as 'the greatest benefit test'.

3.1.2 In determining how the Council should move forward with the awarding of the Large Casino Licence, it is of paramount importance that the Council is clear about the

rationale for its involvement, the objectives for the project and the expected benefits that will accrue to the City.

3.1.3 Building on the original submission officers have identified the need to more clearly define the Council's motives and objectives for the project. Furthermore, if the Council is not clear about what it is trying to achieve through the licensing process then there is the potential that a sub-optimal outcome will be achieved. Accordingly, to give some definition to the Council's rationale for the project, it is proposed that, the following objectives are adopted for the project:

- **Economic** - To secure a positive and significant economic impact for the local economy through the provision of a Large Casino in Leeds
- **Financial** – To seek to maximise the financial return to the Council, and
- **Social** - To use any financial return accrued to facilitate the delivery of programmes and projects that support the Council's Narrowing the Gap agenda, for the benefit of the Leeds area.

3.1.3 Ultimately the objectives outlined above will be reflected in a 'Statement of Principles' which will be incorporated, in due course, into the Council's Gambling Policy, to be approved by full Council following the budgetary and policy framework rules. This Statement of Principles will be the key document that will outline the Council's overall approach to the awarding of the Licence. It is therefore important to establish the objectives which will underpin the Statement of Principles and in turn informs the structure of the process through to the delivery phase and the structure of the competition.

3.1.4 As part of the Council's original submission to the Government it was proposed that a Social Inclusion Fund be established which uses the proceeds, raised through the awarding of the Large Casino Licence. This fund, which would be managed and administered under the guidance of the Council, would be used to finance programmes and projects that would provide benefit to the people of the Leeds area, with a focus on the Narrowing the Gap agenda.

## **3.2 Structure of the Licence Process**

3.2.1 The Gambling Act 2005 sets out a two stage application process including an exercise whereby competing applicants will attempt to show how their proposal will result in the 'greatest benefit' to the area. The Act outlines the general process to be followed, which has some similarities to a competitive dialogue procurement. However, the complexity of the process is dependent on how it is applied in detail and the approach adopted by the Council. For this reason it is proposed that the Council seeks to develop a relatively straightforward process that facilitates a timely and well executed project that is focussed on delivering the objectives agreed.

3.2.2 The Act assumes that the licence will be highly sought after and that authorities will receive multiple applications. For this reason the Act sets out a detailed two stage selection process.

3.2.3 Stage 1 is a routine licence application, similar to the process every gambling premises licence is subjected to. In effect applicants will need to demonstrate that they are fit and proper organisations to hold the Large Casino Licence. It is expected that most, if not all potential operators of the Large Casino Licence will be established in the Casino market and will pass through this stage. Each operator

may object to other operators. This is also the part of the process where the statutory objectives in the legislation will be considered and where the public and agencies have the right to raise relevant representations about the application. Any representations may result in sub-committee hearings in the normal manner. Adverse decisions can be appealed to the Magistrates Court. This process should take 60 days however any appeals lodged will extend this process. Stage 2 cannot commence until all Stage 1 appeals have been determined. Dependant on the number of applicants that pass Stage 1 there is no limit to the number of participants at Stage 2.

- 3.2.4 Stage 2 is the application of the greatest benefit test. There are some similarities within the licensing process to a tender process, where each operator will be asked to demonstrate how their bid would result in the greatest benefit to the area. The legislation allows the authority to enter into a written agreement with the winning applicant or to attach conditions to the licence to secure the proffered benefits.
- 3.2.5 The application pack contents are defined under the Act and will be in the form and manner as prescribed by the application regulations, no other information may be included. The pack will contain a statement of the procedures that the licensing authority will follow, the Statement of Principles, the date that a decision will be made and any other information that the licensing authority considers appropriate and which will include the scoring matrix that will be applied to applications and any communications procedures. It should be noted that Stage 1 & Stage 2 submissions will have to be kept totally independent of each other. It should also be noted that if there is only one applicant for the licence at Stage 1 then there will be no requirement for a Stage 2 process and thus no prospect of securing any benefits (financial or socio-economic) for Leeds through the licensing process.
- 3.2.6 Stage 2 submissions will need to show how applicants will secure the greatest benefit to the local area as identified through the objectives agreed and detailed in the approved Statement of Principles. Consequently, the Statement of Principles sets the framework for the competition and needs to be consistent with the development of the detailed scoring matrix for assessing applications. Essentially the current thinking is to split the evaluation into 4 areas, these are as detailed in Appendix A.

### **3.3 Timetable**

- 3.3.1 An outline indicative programme has been developed which indicates the process herein and in particular the approvals required that relate to the Gambling Policy and the roles of Full Council, Executive Board, Licensing Committee and Scrutiny. Arranging all of the governance requirements in a seamless way is going to be challenging and therefore the process will inevitably take a certain period of time as outlined below:

- |  |                |
|--|----------------|
| • Pre project set up and planning                                      | January '10    |
| • Draft Statement of Principles  | February '10   |
| • Preparatory work for advisory panel                                  | February '10   |
| • Executive Board approval   | March '10      |
| • Set up Project Board/Advisory Panel                                  | April '10      |
| • Complete the Statement of Principles                                 | June '10       |
| • Scoring matrix and content of application pack                       | June - Nov '10 |
| • Revised Gambling Policy<br>(incorporating Principles) Scrutiny Board | June '10       |

“	Executive Board	June ‘10
“	Full Council	June ‘10
“	Public Consultation	August – November ‘10
“	Scrutiny Board	January ‘11
“	Executive Board	January ‘11
“	Full Council	January ‘11
•	Publish & advertise new policy	February ‘11
•	Advertise competition	February ‘11
•	Stage 1 process	May - July ‘11
•	Stage 2 process	Aug - October ‘11
•	Licensing Committee determine Stage 2	November ‘11
•	Issue licence	December ‘11

It is to be noted that these dates do not allow for any legal challenges that might occur during the policy, Stage 1 and Stage 2 processes.

#### **4 Implications For Council Policy And Governance**

- 4.1 The Council must approve a Statement of Principles as part of the Gambling Policy which will set out in some detail how the Council will seek to approach the licensing process. The revision of the Gambling Policy will be approved by full Council following the budgetary and policy framework rules. The legislation also requires a public consultation on the policy which will be considered by the Scrutiny Board and the Executive Board before the matter is referred to Council.
- 4.2 With regard to the licensing process itself, the legislation states that the functions under Part 8 of the Gambling Act 2005 relating to premises licenses, including casino premises licenses, are all delegated to the Licensing Committee of the Authority. Consequently, the governance of the licensing process and the subsequent award of the licence itself falls to the Licensing Committee.
- 4.3 This report seeks the approval of the Executive Board to move forward with the process in the manner outlined within the report. That approval is a matter for the Executive Board notwithstanding that approval of the revised Gambling Policy and the licensing process itself are matters for full council and the Licensing Committee respectively.

#### **5 Legal And Resource Implications**

- 5.1 To be able to achieve the maximum benefit for the area it will be necessary for the Council to enter into a licensing process which will require input at specific points from a number of service areas and potentially professional advisors. In developing a structure to complete the process it will be necessary to give consideration to the following:-
- That the licensing process will be a bespoke process which is based on, but not identical to a competitive dialogue structure
  - The competitive dialogue process can be very time and resource intensive and needs to be managed to a disciplined structure and time table
  - The level of interest that will be generated through the licensing process may prove to be high with interest from a number of parties, all of which may have to be involved in the dialogue process at Stage 2.

5.2 Taking into account the above and given the nature of the industry, the preference is that an external group of advisors are involved in some form. However, in view of budgetary constraints it is proposed to limit this to the minimum and seek to use internal resources where the appropriate skill sets and capacity is in place. Areas where potential additional support may be required includes:-

- The production and content of the bid documentation.
- The application process at Stage 2 .
- The evaluation of the bids for submission to the Licensing Committee.

It is envisaged that the overall project management and licensing statutory processes will remain the responsibility of City Development and Legal, Licensing & Registration.

5.3 The details relating to the financial considerations in respect to the resource implications are highlighted at Appendix B.

## **6 Risks**

6.1 A key risk is that of legal challenge from the gaming industry. It is routine for businesses to submit representations against other businesses, and to lodge appeals when decisions are awarded against them. There is also a heightened risk of challenge by way of judicial review from unsuccessful applicants given the potential benefits to the successful applicant and the limited number of licences awarded across the country. To ensure that this risk is managed, consideration has been given to the use of professional advisors to act as an Advisory Panel and to evaluate the bids received.

6.2 There are a number of other risks which should be highlighted before this approach is agreed

- If the Council only receives one application for the licence then it will be bound to grant that licence if the applicant was successful at Stage 1 of the process. There would be no Stage 2 and thus no prospect of securing any of the benefits discussed above or offsetting any of the costs through licence fees or capital or percentage of yield payments.
- There is a risk of none delivery of the project for example if the Council decides that it is not appropriate to continue the competition because the benefits that will be accrued are insufficient. However work will already have been undertaken on the project and the costs of that would then need to be met from the corporate contingency.

## **7 Conclusions**

7.1 The Council has the statutory power to grant a Large Casino Licence and with a view to the Council moving forward, consideration needs to be given to the outcomes that the Council is seeking. With that in mind it is proposed that the focus of the award of a Large Casino Licence centres on the Narrowing the Gap agenda and seeks to secure economic and social benefits for the area through the financing of a Social Inclusion Fund.

## **8 Recommendations**

- 8.1 Executive Board is asked to note the report and to authorise the Director of City Development and the Assistant Chief Executive (Corporate Governance) to move forward with the process which will lead to the award of the Large Casino Licence; on the basis of the:
  - 8.1.1 Objectives detailed in the report and the confidential Appendix A
  - 8.1.2 The draft timetable presented
  - 8.1.3 The resource implications identified in the confidential Appendix B.

### **Background Papers**

None